

07/09/2015

## **2015 Training Session for Administrators**

### **Session 3: July 9, 2015 Transcript**

## **Health and Safety and Department of Labor and Industry Regulations**

(00:00)

Good Afternoon. Welcome to the third video training session of the 2015-16 professional development series sponsored by the office of career and technical education in the Virginia Department of Education. I am George Willcox, coordinator for planning, administration, and accountability. Today's session will focus on the Department of Labor and Industry's safety and health standards pertaining to work-based learning programs offered across the commonwealth.

(00:48)

Our agenda today will deal specifically with the Virginia labor laws protecting young student workers in the commonwealth, specifically in CTE programs. Let's talk for a second about the history of the Virginia Department of Labor and Industry. It was created in 1898 and at that time was called the Bureau of Labor and Industrial Statistics, and in 1927, it was renamed the Virginia Department of Labor and Industry and has maintained that title ever since. The primary authority of the Virginia Department of Labor and Industry is the Code of Virginia, specifically Title 40.1, which deals with labor laws of Virginia. And it will be very important as a CTE director and a work-training coordinator that you are aware of this particular title and section of the Code of Virginia.

(02:10)

The specific services provided by the Department of Labor and Industry include services to citizens, employers, and employees to produce a safe, healthy, and productive work environment. The headquarters office is located in Richmond, and there are regional offices in Abingdon, Manassas, Lynchburg, Norfolk, Richmond, Roanoke, and Vienna. The child labor laws are found in the Code of Virginia in sections 40.1-78 to 40.1-116 and in the Virginia Administrative Code 16 VAC 15.30.10 to 16 VAC 15.50.50. It's really important as we proceed with this presentation that we focus on two key words: "work" versus "training." And it's important because the Code of Virginia deals with the requirements pertaining to safety of children in work environments, primarily in employed work environments. However, local school divisions have an exception that has been authorized in the Code to provide training, and as we go through the PowerPoint, we will point out where the Code deals with work, and because, as a local school division you are involved in training, there are certain exceptions that apply to local school divisions across the state.

(04:20)

Let us focus on the work-training certificate, which is found in the Code of Virginia in Section 40.1-88. Specifically, the work-training certificate shall permit the employment of a child between 14 and 16 years of age during school hours when enrolled in a regular school work-training program pursuant to a written agreement containing the same provisions as specified in 40.1-88. And we will focus on 40.1-89 in just a minute. The key thing here is, that before a student begins the work-training experience, the school division must provide a work-training certificate. Previously, the work-training certificate for a number of years was called the work permit in some school divisions across the state, but specifically the Code of Virginia calls it a work-training certificate and the school division must provide each student with that certificate prior to beginning the work training.

(05:50)

Let's focus now on Section 40.1-89, which provides conditions associated with the work-training certificate. Specifically—it will be in the second sentence that the school divisions will be most interested in—but no child shall be employed pursuant to a written training certificate as provided in 40.1-88 when such employment requires such child to work in any occupation which is deemed to be hazardous. And that is the real emphasis of this entire presentation: to ensure that students are not placed in hazardous work environments. However, a child 16 or 17 years of age may be employed in certain such occupations as part of a work-training program, and that's what we provide in local school divisions, a training experience for students. The conditions go on to say that no child shall work in a work-training program except pursuant to a written agreement which shall provide three specific things: (1) that the work of such child shall be incidental to his training, shall be intermittent and for short periods of time, and shall be under the direct and close supervision of a competent and experienced teacher;

(2) that safety instructions shall be given by the school and correlated with on-the-job training given by the employer; and

(3) that the schedule of organized, progressive work processes to be performed shall have been prepared.

Very, very important. Such written agreement shall set forth the name of the child so employed and shall be signed by the employer and the coordinator of the school having jurisdiction. We will come back to each of these three points as we move forward. And then finally, any such work training certificate or written agreement may be revoked at any time that it shall appear that reasonable precautions for the safety of such child have not been observed. This is, again, part of the reason for providing this presentation: to ensure that these safety conditions are met.

(08:59)

Now we'll move to the components of the work-training agreement, which again pertains to the Code of Virginia Section 40.1-88 and 89. If a written training agreement is in place, then a 16- or 17-year-old may be employed by an exempt hazardous occupation. And we're going to look in a few minutes at what some of those hazardous occupations are. That a 14- or 15-year-old may be employed in a restricted occupation. And the occupations that the Code of Virginia deems to be hazardous are now being listed across your screen, and they range from manufacturing or storing of explosives to logging and sawing to power-driven woodworking machines, power-driven hoisting apparatus ... there are a number of items in this category in which students cannot be engaged in terms of employed work. However, as part of a school division's training program, there are exemptions that school divisions have under 40.1-88 and 40.1-89. So, yes, when we think about power-driven woodworking machines, we know that a student might be engaged in a training environment that would utilize a circular saw or a drill press and in that training situation, under the close and direct supervision of the teacher, the Code of Virginia permits that type of training. The key word, again, being "training." Here we have a list of other hazardous occupations which students are not permitted to be engaged in unless they are involved in a work-training agreement pursuant to Section 40.1-88 through 40.1-89. Another example that I will speak to here would be roofing: In a number of your trade and industrial programs, students are engaged in house-building projects. However, not only do they have the exception, there remain certain safety precautions that must be met: for example, fall equipment, certain height in which students are only permitted to go. But the key here is that, in a training environment, students would be permitted to be engaged in selected hazardous occupations. Certainly, the exemption would not cover serving alcoholic beverages. So, each of these items must be looked at specifically in terms of: Do the competencies in the course require the use of such equipment? A very important component here, that competencies of the CTE course must call for the utilization of equipment that would be eligible under the work-training agreement. Certainly, with no exception, students will not be permitted to be involved in any sexually explicit activity or material of any type.

(13:24)

Let's focus next on the Code of Virginia which deals with driving at work, which is covered under Section 40.1-108. Driving is prohibited for minors 16 and younger. Under no conditions may students 16 or younger drive. There are strict limits, however, on when a 17-year-old may drive.

(14:01)

Now we'll look at restricted duties of minors under 16 years of age. And again, we are looking at hazardous occupations and restricted duties in which a student might be engaged if the competencies of the course requires it. For example, in a marketing program, a student might receive training in terms of hotel and motel room service. However, it would require that that be a part of the competencies. I

am not aware of any CTE course that engages students in dance clubs, for example. So, as we look at the exemption that we have under 40.1-88, you must refer back to the competencies of the course to determine if the competencies of the course require use of hazardous equipment or to be engaged in training in areas in which there are restricted duties for minors under the age of 16.

(15:30)

Here again we have another list of restricted duties in which, if the competencies of the course call for the student to be engaged in training in a particular area, there would be exemptions under the Code of Virginia. We have attempted here to list all of the different restricted duties that generally would come up in a school environment. For example, in an agriculture course a student might be engaged in training that would involve power-driven mowers or cutting equipment. So, without the work-training exemption, students would not be permitted to be engaged in those areas, and in fact, the only way that they could be engaged in those types of activities would be as part of a work-training program. They could not go out and be privately employed at age 16 or under in these areas.

(16:54)

If a written work-training agreement is in place, then, again, 16- or 17-year-old students may be employed in an exempt occupation. Students 14 and 15 years old may also be employed in restricted occupations.

(17:24)

The written work-training agreement must set forth the name of the child employed, be signed by the employer and coordinator of the school division, and it must certify that the student learner is enrolled in a course of study and training in a career and technical education program. Again, that comes back to the competencies of the course is the reason for the work-training agreement and the opportunity for the students to develop proficiency in particular occupational areas.

(18:13)

The work-training agreement must state the work declared hazardous will be incidental to the training and that hazardous work will be intermittent for short periods of time under the direct, close supervision of a competent and experienced teacher. The work-training agreement must also include safety instruction given by the school and correlated with the on-the-job training given by the employer. And a schedule of organized and progressive work processes to be performed by the student must be covered.

(19:09)

Let's look for a minute at the student learner exemptions with a written training agreement. Provided there is a student learner exemption and it is well-documented within the work-training agreement, the following provide exceptions for minors 16 or 17 years of age: that they may be involved in the use of power-

driven woodworking machines, power-driven metal forming machines and the host of items that are listed here in this particular PowerPoint – power-driven saws, roofing. All of these things are commonplace in CTE programs, but it is only when there is a work-training agreement signed and the student has a work-training certificate, all of the necessary safety exams and tests have been completed and the student has passed all of those with exceptionally high scores. Minors 14 or 15 years old also have restricted occupations in which they are exempt under.

(20:42)

Let's move now to hour restrictions—the length of time or when these programs can take place—and that is covered under 40.1-80.1, 88, 115, and 116, in which work-training agreement permits a student learner to work during school hours. All other hours, restrictions still apply, and we will look a little bit closer at a couple of examples of that. Employers may not require a minor to work in violation of a local curfew ordinance. So, if a locality or school division or city or county has a local curfew ordinance, the work-training agreement does not exempt the student from following those legal requirements. This chart provides you with the hours in which students may work during the school year and also during the summer, an example being that during the school year a student could be involved in a work-training program from 7 a.m. to 7 p.m. and during the summer it could be from 7 a.m. to 9 p.m.

(22:34)

Important point here: Employers are required to give a 30-minute break after a minor works five consecutive hours. Once a student has worked five consecutive hours, they must be given a 30-minute break. And again, that is because they are involved in a work-training program. If they were gainfully employed, the options of the employer would certainly be different. But again here, the employer is required to give the students a 30-minute break after five consecutive hours of work.

(23:26)

Following the Code of Virginia and the regulations that we have covered here today are extremely important. A coordinator can be held responsible for any violation of the child labor laws. Each violation could be up to \$1,000 in civil penalty. Certain types of violations could even go up as high as \$10,000.

(24:08)

We would encourage school divisions to take advantage of inviting the Virginia Department of Labor and Industry to do joint workplace inspections of not only your classroom laboratories but also the businesses and industries in which the students might receive training, and also that you invite representatives from business and industry and the Department of Labor and Industry specifically into your classrooms to do presentations to students to assist in assuring them that

they not only know the legal aspects of the laws governing work-training agreements but to also help them with an understanding of safety.

(25:13)

The Virginia Department of Labor and Industry laws and regulations under the Code of Virginia in many ways are a mirror image of the federal laws and regulations pertaining to the Fair Labor Standards Act. We would encourage administrators to go to the federal site and review those regulations; however, the state and federal regulations match very, very close. In situations where there might be a difference, the stricter law will always be the prevailing decision; the stricter law will always be the prevailing action. Here you have the phone number for the Virginia Department of Labor and Industry, also their website address is here. Please contact them at any time that you might need assistance.

(26:36)

We certainly thank you again for participating in today's session. You have contact information here: Lolita Hall, the director of the Office of Career and Technical Education. And also, I would like to point to Sharon Acuff, who is the staff lead representative for cooperative education programs and our work-based learning initiative in the commonwealth.

(27:03)

The next video streaming training session will be held on July 16. The focus of that session will be CTE federal program monitoring, specifically looking at the self-assessment and the civil rights reviews. We reactivated the on-site reviews during the spring of the 2014-15 school year. We would certainly encourage all school divisions to participate in the Video Training Session 4.

(27:45)

And in closing, please take a few minutes to go to the website and complete the evaluation of this session and the PowerPoint information provided. We take your feedback very seriously and use your input to continually improve the type of video training sessions that are offered throughout the school year in an effort to provide just-in-time technical assistance.

(28:20)

Thank you for your participation today. We hope that this training session has been useful and will certainly assist you in ensuring students are engaged in work-based learning during the 2015-16 school year in accordance with policies and regulations of the Code of Virginia. Certainly if you have any questions pertaining to cooperative education, please contact Sharon Acuff at the Department of Education. I would ask that you would take a few minutes to complete the evaluation; there is a link at the end of the video. I would also like to thank the CTE Resource Center for providing the technical assistance for the recording today. We wish you a very successful 2015-16 school year.